REMARKS

Claims 1, 2, 11-14, 16 and 17 are pending in the subject Application. Applicants have hereinabove amended the Specification. The amendment to the Specification serves to correct clerical and grammatical errors. Applicants note that the amendment contains no new matter, and respectfully requests entry of the Amendment.

Attached hereto is a marked-up version of the changes made to the subject Specification by the hereinabove amendment. The attached page is captioned "Version With Markings To Show Changes Made."

OATH AND DECLARATION AND PRIORITY:

In the Office Action, the Examiner stated that the Oath and Declaration was defective because the priority claim to application U. S. Serial Number 09/500,023 has been claimed under 35 USC section 119 (e) and 35 USC Section 120 and is only entitled to claim priority under 35 USC 120 (a). In response, Applicants are forwarding a Supplemental Oath and Declaration, claiming the benefit under 35 USC 120 to Application U.S. Serial No. 09/500,023. Accordingly, Applicants request the Examiner withdraw the objection.

DOUBLE PATENTING REJECTIONS:

In the Office Action, the Examiner rejected claims 1, 2, 11, 16 and 17 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 16 and 17 of copending allowed Application No. 09/500,023. In response, Applicants will consider, upon an indication by the Examiner of allowable subject matter, the filing of a terminal disclaimer for the above-identified U.S. Patent Application. Accordingly, Applicants respectfully request the Examiner hold the rejection in abeyance until such time.

REJECTION UNDER 35 U.S.C. 102:

In the Office Action, the Examiner rejected claims 1, 2, 11-14, 16 and 17 under 35 U.S.C. 102. In the Office Action the Examiner stated that the Examiner would withdraw the 35 U.S.C. § 102 rejections and allow claims 1, 2, 11-14, 16 and 17, if Applicants could supply evidence addressing why Ron et al and Tobinick are not enabled for methods of treating glaucoma with antibodies that inhibit Tumor Necrosis Factor alpha.

In response to the rejection of the Claims under 35 U.S.C. 102, Applicants traverse the rejections. Applicants maintain that contrary to the Examiner's assertion, Ron et al does not anticipate Applicants' invention, namely a method of treating glaucoma by administering a compound, which antagonizes, inhibits, inactivates, reduces, suppresses and/or limits the release, synthesis or production of TNF-α.

Ron et al in United States Patent No. 6,204,270 state that the invention (column 3, lines 66-67):

> "relates to a composition to treat **mucosal disorders of the eye**".

Further, according to Ron, inhibition of TNF-α in mucosal eye disorders is for the purpose of effecting downstream events relating to TNF-α release (column 4, lines 17-20):

> "Such active agents, as well additional compounds, that are capable of inhibiting the production or otherwise suppressing the ***pro-inflammatory*** effects of TNF-α can be used in the treatment of ophthalmic diseases".

Since Ron et al. discloses that the inhibition of TNF-α is critical for reducing TNF-α mediated proinflammatory effects at a mucosal surface, Ron et al cannot anticipate Applicants' invention. As is known to those skilled in the art, glaucoma is neither a mucosal disease nor an inflammatory disease [See for example Flammer J et al., Prog Retin Eye Res 2002 Jul;21(4):359-93 The impact of ocular blood flow in glaucoma; or Bonomi L, et al.,

Ophthalmology 2000 Jul;107(7):1287-93, Vascular risk factors for primary open angle glaucoma: the Egna-Neumarkt Study; or Halpern DL, et al., Ophthalmol Clin North Am 2002 Mar;15(1):61-8 Glaucomatous optic neuropathy: mechanisms of disease]. Therefore, Ron et al does not anticipate Applicants' invention.

In addition, in order for Ron to anticipate the instant invention, it must teach each and every element of what is being claimed, and provide a written description of the invention of the manner and process of making and using the invention, in full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains to make and use the invention (35 U.S.C. 112). Ron et al does not provide any credible evidence to one skilled in the art that glaucoma can be treated with compounds that mitigate or abrogate TNF-α synthesis or production. Thus, Ron et al cannot anticipate Applicants' invention. Accordingly, Applicants request Examiner's withdrawal of the rejection under 35 U.S.C. 102.

REJECTION UNDER 35 U.S.C. 103:

In the Office Action, the Examiner rejected to claims 1, 2, 11-14, 16 and 17 under 35 U.S.C. 103.

In response, Applicants traverse the rejections. Applicants maintain that contrary to the Examiner's assertion, it would not have been *prima facie* obvious to a person of ordinary skill in the art at the time the invention was made based on Ron et al further in view of Tobinick, to treat ***glaucoma*** by administering a compound, which antagonizes, inhibits, inactivates, reduces, suppresses and/or limits the release, synthesis or production of TNF-α.

Contrary to the Examiner's assertion, neither Ron nor Tobinick teach the direct involvement of TNF-α in glaucoma, and the necessity for the neuroprotection required in alleviating direct effects mediated via TNF-α production in glaucoma.

If anything Ron et al. teaches away from the subject matter defined by the claims. Ron et al discloses that inhibition of TNF-α is critical for reducing ***indirect*** TNF-α mediated proinflammatory effects at a ***mucosal*** surface, and Tobinick et al specifies that infliximab

may be used as therapeutic intervention in TNF-α mediated diseases. Thus, Ron teaches away from Applicants' invention, since Ron discloses that inhibition of TNF-α for mucosal diseases, and glaucoma is not a mucosal disease. Thus, one skilled in the art by following the disclosure in Ron et al in view of Tobinick et al would not use TNF-α for treating glaucoma. Therefore, Applicants request Examiner's withdrawal of the rejection under 35 U.S.C. 103.

Based on the foregoing, Applicants request allowance of the claims. Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below.

No fee is deemed necessary for filing this Amendment. However, if any fee is required, the undersigned Attorney hereby authorizes the United States Patent and Trademark Office to charge Deposit Account No. 05-0649.

Respectfully Submitted,

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Date: March 10, 2003

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Figure 13. Inhibition of apoptosis in retinal ganglion cells in co-cultures incubated under stress conditions in the presence of specific inhibitors of TNF-α or iNOS. The activity of TNF-[ ]α was neutralized using a specific antibody (10 μg/ml) and iNOS was inhibited using a selective inhibitor, 1400W (2.5 μM)